

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANN WHITECOTTON HOMES, LLC, AND	§	
GREAT AMERICAN ASSURANCE	§	
COMPANY AS SUBROGEE OF ANN	§	
WHITECOTTON HOMES, LLC,	§	
	§	Civil Action No. 3:21-cv-01965
Plaintiffs,	§	
v.	§	
	§	
CALIFORNIA FAUCETS, INC., AND	§	
ZURN INDUSTRIES, LLC d/b/a ZURN	§	
INDUSTRIES PLUMBING PRODUCTS,	§	
LLC,	§	
	§	
Defendants.	§	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Zurn Industries, LLC (“Zurn”), hereby removes the action filed in the 355th Judicial District Court of Hood County, Texas under cause number C2020391 to the United States District Court for the Northern District of Texas, Dallas Division, and in support of removal states the following:

I. STATE COURT LAWSUIT

1. On August 2, 2021, Plaintiffs Ann Whitecotton Homes, LLC and Great American Assurance Company as Subrogee of Ann Whitecotton Homes, LLC (“Plaintiffs”), served Zurn with a copy of their First Amended Original Petition (the “Petition”), joining Zurn to a pending lawsuit in the District Court of Hood County, Texas, Cause No. C2020391 (the “State Court Lawsuit”).

2. Plaintiffs allege in the Petition that Zurn and/or Defendant California Faucets, Inc. manufactured and sold a defective plumbing product—a fitting—that failed, resulting in property damage.

3. Plaintiffs allege that Ann Whitecotton Homes subsequently repaired the damage, incurring damages of \$82,159.00, for which Ann Whitecotton Homes sought and received reimbursement from its builder's risk insurer, Great American.

4. Plaintiffs now seek to recover these same damages and other amounts from Zurn and California Faucets.

5. Zurn removes this action to this Court based on diversity jurisdiction.

II. PROCEDURAL REQUIREMENTS

6. Because Zurn was served with process of the Petition on August 2, 2021, removal is timely under 28 U.S.C. § 1446(b) as this Notice of Removal is filed within 30 days after the State Court Lawsuit was filed. (*See Ex. C.*).

7. This action is properly removed to this Court, as the State Court Lawsuit is pending within this district and division. 28 U.S.C. § 1446(a).

8. In accordance with 28 U.S.C. § 1446(a) and Local Rule 81.1, the following documents are attached to this Notice of Removal:

Exhibit A An Index of Exhibits being filed;

Exhibit B A copy of the State Court Docket Sheet;

Exhibit C A copy of all process, pleadings, and orders served upon the parties in the State Court Action, including:

- First Amended Petition, filed July 23, 2021 (with service of process transmittal);

Exhibit D Federal Civil Cover Sheet;

Exhibit E Supplemental Civil Cover Sheet;

Exhibit F List of Counsel of Record; and

Exhibit G Certificate of Interested Persons.

9. Pursuant to 28 U.S.C. § 1446(d), Zurn files a copy of this Notice in the State Court Lawsuit concurrently with filing the Notice in this Court.

III. GROUNDS FOR REMOVAL

10. The State Court Lawsuit is removable pursuant to 28 U.S.C. § 1441. As set forth herein, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because this action is between citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

11. Minimal Diversity Requirement. As alleged in the Petition, attached hereto as Exhibit C, this action is between citizens of different states.

12. Plaintiff Ann Whitecotton Homes, LLC is a limited liability company, whose members, upon information and belief, all are citizens of Texas. Ann Whitecotton Homes therefore is a citizen of Texas. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) (“[T]he citizenship of a LLC is determined by the citizenship of all of its members.”).

13. Plaintiff Great American Assurance Company is an Ohio corporation with its principal place of business located in Ohio. (*See* Ex. C, First Amended Petition, ¶ 3). Great American therefore is a citizen of Ohio.

14. Defendant California Faucets, Inc. is a California corporation with its principal place of business located in California. (*See id.*, ¶ 4). California Faucets therefore is a citizen of California.

15. Zurn is a Delaware limited liability company with its principal place of business in Milwaukee, Wisconsin. (*See id.*, ¶ 5). Zurn’s sole member is Zurn Industries Holdings, Inc., which is a Delaware corporation with its principal place of business in Milwaukee, Wisconsin. Zurn therefore is a citizen of Delaware and Wisconsin.

16. Because Plaintiffs are citizens of Texas and Ohio, and Defendants are citizens of California, Delaware, and Wisconsin, complete diversity of citizenship exists.

17. Amount in Controversy Requirement. The amount in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff seeks monetary relief of at least \$82,159.00. (Ex. C, Petition., ¶ 28.)

18. Timeliness of Removal. This Notice of Removal is timely because it is being filed within 30 days of Zurn receiving, through service or otherwise, a copy of the First Amended Petition. 28 U.S.C. § 1446(b)(1). Zurn was served through its registered agent, CT Corporation, by process server on August 2, 2021.

19. Consent. By phone on August 11, 2021, California Faucets consented to the removal of this action. 28 U.S.C. § 1446(b)(2)(A).

20. Removal to Proper Court. This Court is the appropriate court to which this action must be removed because it is part of the district and division within which this action is pending, namely, Hood County, Texas. 28 U.S.C. §§ 1441(a), 1446(a).

21. Filing and Service. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be contemporaneously filed in the District Court of Hood County and served on all counsel of record.

22. Pleadings and Process. Zurn has not been served with any process, pleadings, or orders in this action other than the Summons and First Amended Petition. *See* 28 U.S.C. § 1446(a); *see, inter alia*, Procedural Requirements.

23. Zurn reserves all of its rights and defenses, including without limitation those rights and defenses under Fed. R. Civ. P. 12 and will timely respond to the First Amended Petition in accordance with Fed. R. Civ. P. 81.

IV. CONCLUSION

24. Removal of this action is proper under 28 U.S.C. §§ 1332(a) and 1441. This is a civil action brought in a state court, and the federal district courts have jurisdiction under 28 U.S.C. § 1332(a) because there is complete diversity and over \$75,000.00 in controversy.

25. Accordingly, Zurn removes this action from the 355th Judicial District Court of Hood County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, so that this Court may assume jurisdiction.

Respectfully Submitted,

/s/ Justin K. Cho

J. Allen Smith

Texas Bar I.D. 18616900

asmith@settlepou.com

Byron L. Kelley

Texas Bar I.D. 24065547

bkelley@settlepou.com

Justin K. Cho

Texas Bar I.D. 24101618

jcho@settlepou.com

SETTLEPOU

3333 Lee Parkway, Eighth Floor

Dallas, Texas 75219

(214) 520-3300

(214) 526-4145 (Facsimile)

ATTORNEYS FOR DEFENDANT

ZURN INDUSTRIES, LLC

Certificate of Service

I certify that this document was served in accordance with the Federal Rules of Civil Procedure on August 23, 2021, by the manner indicated upon the following persons:

Via E-File:

David A. McFarland
Christopher G. Rigler
Thompson, Coe, Cousins & Irons, LLP
700 North Pearl St., 25th Floor
Dallas, Texas 75201-2832
dmcfarland@thompsoncoe.com
crigler@thompsoncoe.com

ATTORNEYS FOR DEFENDANT CALIFORNIA FAUCETS, INC.

Via E-File:

W. Chris Surber
Gauntt Koen Binney & Kidd LLP
25700 I-45 North, Suite 130
Spring, Texas 77386
chris.surber@gkbklaw.com

ATTORNEY FOR PLAINTIFFS, ANN WHITECOTTON HOMES, LLC, AND
GREAT AMERICAN ASSURANCE COMPANY A/S/O ANN WHITECOTTON HOMES, LLC

/s/ Justin K. Cho

Justin K. Cho